

**Remarks:**

In an office action mailed September 24, 2007, Claims 1-5 were rejected. The office action states that Claims 1-5 were rejected under 35 U.S.C. § 101 because the disclosed invention is inoperative and therefore lacks utility. Claim 2 was also rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1, 2, and 5 were further rejected under 35 U.S.C. § 103(a) as being unpatentable over "Mohammed", U.S. Pat. No. 6,418,555.

Applicant thanks the Examiner for providing an indication that Claims 3 and 4 would be allowable if amended to overcome the 35 U.S.C. 101 rejections.

Applicant has cancelled Claims 1-5. Applicant has added new Claims 6-28. New Claims 27 and 28 include the limitations corresponding to the subject matter of Claims 3 and 4, which the previous office action indicated included allowable subject matter. No new matter was added.

Therefore, Applicant respectfully requests allowance of Claims 27-28. Applicant respectfully submits that Claims 6-26 also contain patentable subject matter. Therefore, Applicant respectfully request reconsideration of the presently pending claims in view of the following remarks.

**Rejections under 35 U.S.C. §101, 35 U.S.C. §112, and 35 U.S.C. §103(a)**

Applicant respectfully submits that the rejections of Claims 1-5 are now moot because Applicant has cancelled Claims 1-5.

New Claim 11 describes the limitations of "the processor configured to execute the application program, wherein the processor subsequently executes the update command, and the processor is further configured to suspend the application program and to download an update for the application program from the application provider in response to execution of the update command."

In contrast, Mohammad describes a detection module that monitors for an operating system upgrade. *See*, Abstract. Mohammad further describes the invention as "a system including a program executable in the system to automatically upgrade a software component if

the operating system has been upgraded." See, col. 1, lines 46-49. Describing FIG. 1, Mohammad further describes "a computer system 14 ... that is configured to detect an operating system 152 upgrade and to upgrade software component to work with the new operating system." See, col. 2, lines 8-12; see also, col. 2, line 64-col. 3, line 8. Thus, Mohammad does not describe the limitations of "the application program comprises an update command", as described in Claim 11. Instead, Mohammad describes a separate module to detect that an operating system has been upgraded. For at least this reason, Applicant submits that Mohammad fails to teach or suggest each and every limitation of Claim 11, and Claims 11-15 are patentably distinct over Mohammad.

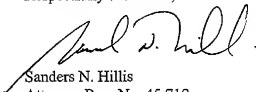
Also, in contrast to Mohammad, new Claim 6 describes "an execution unit configured to execute an application program, wherein the application program includes a specified command" and "a suspend unit configured to suspend execution of the application program in response to execution of the specified command" and "an upgrade unit configured to upgrade the application program, by communication via the communication unit with the provider, in response to suspension of the application program." Applicant respectfully submits that Mohammad fails to teach or suggest each and every limitation of Claim 6 as least for the reason that the upgrade unit is configured to upgrade the application program in response to suspension of the application program whereas Mohammad describes "a system including a program executable in the system to automatically upgrade a software component if the operating system has been upgraded." See, col. 1, lines 46-49. Thus, Mohammad does not anticipate Claim 6 and Claims 6-9 are patentably distinct over Mohammad.

Applicant also believes that Claims 16-28 are patentably distinct over Mohammad. Thus, Applicant respectfully submits that Claims 6-28 are patentable over Mohammad.

**Conclusion**

For at these reasons, Applicant respectfully requests a Notice of Allowance be issued. In hopes of expediting prosecution and allowance of the application, Applicant respectfully encourages and invites the Examiner to contact the Applicant's undersigned attorney in the event that the Examiner believes the application is not in condition for allowance.

Respectfully submitted,



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